

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Proposed Revision of 1998 Collection
Amounts for Schools and Libraries and
Rural Health Care Universal Service
Support Mechanisms

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)
) CC Docket No. 96-45, 97-160
) DA 98-848
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TO: The Common Carrier Bureau of the Commission

COMMENTS OF CAMPAIGN FOR TELECOMMUNICATIONS ACCESS

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I. Introduction and Identification

The Campaign for Telecommunications Access (the Campaign) works to assure that new telecommunications technologies will be available to, usable by, and affordable for all citizens, regardless of where they live and regardless of what disability or other condition they may have that is a barrier to their using some kinds of equipment. The Campaign is composed of American Council of the Blind, Missouri Alliance of Area Agencies on Aging, Missouri Association for the Deaf, Missouri Council of the Blind, National Silver Haired Congress, Presidents' Club for Telecommunications Justice, and Paraquad, the latter being the independent living center located in St. Louis, Missouri, that assists people with all kinds of disabilities to integrate fully into society. The Campaign is an outgrowth of the Consumer Interest Intervenors intervention in the judicial review of the Commission's Interconnection Order, FCC Docket No. 96-98 (Aug. 8, 1996) *modified by* Order on Reconsideration (Sept. 27, 1996). *Iowa Utility Board v. FCC*, 120 F.3d 753 (8th Cir. 1997), *cert. pending*.

The participants in the Campaign are leaders and organizations that are substantially run, respectively, by older adults and people with disabilities and devoted to ensuring that older adults and people with disabilities--and all citizens for that matter--have the opportunity to live independent, productive lives and have the accommodations that allow them to be as fully integrated into the community as possible. In working to see that new and existing telecommunications technologies will be available to, usable by, and affordable for all citizens, the Campaign is an extension of that mission in the area of telecommunications.

II. The Source of the Campaign's Interest

New telecommunications technology, when fully distributed to the citizenry and usable by and affordable for all, promises numerous new ways for older adults and people with disabilities--and all other citizens--to maintain their independence and lead productive lives. The issue of what telecommunications services will be available, usable, and affordable affect a considerable portion of the Nation.

In 1996, 33 million Americans were 65 years of age or older. *Statistical Abstract of the United States*, 117th Edition, 48 (Berman Press 1997) [*Abstract*]. This category of older Americans will double by the year 2030. *Id.* at 17. See also, AARP, A Profile of Older Americans: 1995. This population shift will also affect the demographics of the labor force. In 1996, adults age 65 and over, represented 11.6 percent of employed persons, leaving 87.8 percent out of the employment pool. *Abstract* at 48. Nearly 27,000 of those older persons were not in the labor force due to ill health or disability. *Id.* at 409.

An even larger pool of Americans have disabilities. The conservative estimate is that 15 percent of Americans have disabilities. H. Kaye, *Disability Watch: The Status of People with Disabilities in the United States* 11 (1997). That estimate is in part based on 1992 U.S. Census figures, which shows that 49 million people in America had disabilities at that time. President's Committee on Employment of People with Disabilities, *Profit from our Experience* (Oct. 1995). Only 31 percent of people with disabilities from ages 16 to 64 had jobs in 1994, while some 79 percent of people with disabilities who were not working wanted to work. *Id.*; National Organization on Disability, *Report* (Fall 1994). Among many

other reasons given, 38 percent said they do not have the necessary education, training, or skills to get a job and 28 percent lacked accessible transportation.

Policymakers commonly ignore the need to assist older adults and people with disabilities to be in the mainstream of society, leaving these population segments underserved. For example, a Missouri study of the needs of older adults showed among other things that 67 percent of older Missourians who perceive a need for information services do not get it, 59 percent who perceive a need for elderly care information do not get it, 37 percent who perceive a need for transportation services do not get them. Missouri Department of Social Services, Division of Aging, *Needs Assessment Study, 1994 Statewide Report*.

The promise of present and future telecommunications very much affects the lives and independence of people with disabilities and older adults. Consider, for example, today's telecommunications technologies. Such things as Caller ID screens allow a deaf person to know who is calling even if the caller does not have the sense or knowledge to use a TDD or the Relay Service to call the deaf person. The deaf person can view the screen, return the call via the Relay Service if he¹ wants, and complete a communication that would have been impossible before the introduction of that technology.

Consider, for example, the health and safety we entrust to the telecommunications systems. We assume a 911 call, or burglar alarm call to a monitor, or call to a medical care monitor will virtually always go through and go through the first time. Older adults live in

¹Occasionally, in these comments, a male pronoun is used to reference a hypothetical individual. In such occasions, that pronoun is used in a generic sense to refer to a hypothetical individual of either gender.

their homes longer today, rather than moving into nursing homes, because they can rely on the telephone to call for help when they need it. The same is true of many people with disabilities.

Future telecommunications technology foretells even greater promise. Many of the problems people with disabilities and older adults face with obtaining education, transportation, jobs, health care, and other services will be assuaged or eliminated by the advanced telecommunications technologies that Congress encouraged in enacting the Act. Consider a few. Telecommuting will allow people with transportation problems to stay in their homes and neighborhoods and work anywhere in the world. Telemedicine will allow people to remain home and independent even if they live some distance from their doctors. Distance learning will allow students to attend the university from their living rooms. People who lack the physical strength to pick up a book will be able to read books located around the world with the punch of a button.

Videoconferencing will allow deaf people to sign to one another. It will allow deaf students to attend any class and obtain deaf interpretation through a screen in the classroom and a remote interpreter located miles away. It will allow grandparents to watch their grandchildren grow even though they may live a continent or more apart.

The examples are inexhaustible. The fundamental fact is that advanced telecommunications technology will overcome serious transportation and communications barriers that today keep some people from being educated, trained, cared for, employed, out of nursing homes, and integrated into their communities.

III. The Core Issue

But, all these advances will only work if that advanced technology comes to all people with disabilities, older adults, and all Americans. Therefore, the Campaign's foremost concern in the telecommunications re-regulation that has gone on over the past several years is this: Does each proposal guarantee that advanced technologies will reach, and current technologies will continue to reach, our constituents--geographically, technologically, and affordably--even though our constituents are spread all over America?

In this proceeding, that question translates into the question whether techniques under discussion, regarding forward-looking economic cost mechanisms, would contribute to ensuring the availability of new and existing technologies for all the Campaign's constituency.

While the Common Carrier Bureau is understandably enmeshed in the details of developing universal service support mechanisms, the Campaign--making its presentation as it is for the first time in the universal support arena--can only make intelligible comments here by first stating its overall analysis of developing universal service support mechanisms. Moreover, with all due respect, the Commission has so segmented issues from the very beginning, that is, in the trilogy proceedings, that it has been difficult to discern exactly which proceeding will respond to the Campaign's concerns.

IV. The Unexamined Dogma Underlying Universal Service Support Mechanism Development

It appears to the Campaign that a presumption that seems to have risen to the level of dogma is relied upon in many telecommunications regulatory circles to answer the question of what universal service support should be afforded many people with

disabilities, older adults, and others requiring such support. The dogma has three unsupportable beliefs:

- That the Telecommunications Act of 1996 requires making all existing implicit subsidies explicit and then eliminating the means by which they are presently collected.
- That the only way to replace the former implicit subsidies is through universal service support mechanisms.
- And, that this process of rearranging subsidies will create the framework that will make competition possible in telecommunications.

The Campaign suggests the dogma is replete with errors. Among them the Campaign suggests, first, that Congress only required subsidies be made explicit--not that they be eliminated all at once. Second, Congress never suggested that revenues from an industry segment that is contributing to an implicit subsidy should no longer have to contribute the subsidy, simply because the subsidy is made explicit.

Third, paying subsidies to competitors who take on existing telephone companies' subsidized customers risks increasing the need for subsidies and still leaves the poorest of the poor and those otherwise least able to protect themselves the losers in the process. Fourth, while any subsidies may be bad for one trying to implement some approximation of Pareto optimal models, properly targeted subsidies are good public policy that are a necessary and cherished part of giving every American an opportunity to participate fully in society. The currently prevalent plenary objection to subsidies by various staff and leadership within this Commission is an over broad reaction that disregards the needs of many within the Campaign's constituency and elsewhere.

**V. The First Problem with the Dogma:
Making Subsidies Explicit Does Not Imply Killing Them All at Once**

Economic theory says, do away with subsidies. They interfere with the closest possible approximation of free markets and as a result reduce the maximum social welfare we can all enjoy. But economic theory also says, ignore how wealth and opportunity are distributed.

Economic theory can tell how to get the most wealth into society as a whole, but it cannot and does not respond to the questions: Is there a fair playing field? Does everybody from the most to the least advantaged get a chance to participate in society? The presence, absence, and if present, design of subsidies answer those wealth and opportunity distribution questions--not the application of economic theory.

And it is those wealth and opportunity questions that the Campaign's constituents raise. Those constituents have among themselves the least wealthy in society. Often from a telecommunications standpoint, they live in places that are the most expensive to serve. If we were allow the free market to develop without protecting these constituents' interests, no telephone company would serve all of them.

Watching the Commission go through its many proceedings has made us wonder whether the Commission--and the Joint Board--understand this. We believe Congress did.

Take one simple example. Much of the institutional writing in this area suggests belief in the first false dogma described above--that the Telecommunications Act of 1996 requires making all existing implicit subsidies explicit and then eliminating the means by which they are presently collected. That is a natural, if self-serving, response from economists reading the Act, but it is not a fair reading of the law.

It is interesting to catalog the places in the 1996 Act that refer to “explicit” and “subsidy.” Aside from § 254 and related § 214, which we will examine more closely below, the Act makes the following references:

Section 251 retains certain restrictions and obligations on local telephone companies “until such restrictions and obligations are *explicitly* superseded by regulations prescribed by the Commission after” the effective date of the Act. No reference to making subsidies supporting the disadvantaged explicit here.

Section 260 prohibits local telephone companies from using their local business revenue to subsidize entry into the telemessaging business. Section 273 prohibits Bell operating companies from using their local business or their equipment manufacturing business (when allowed in such business) to cross-subsidize each other. Section 274 prohibits Bell operating companies from using their local business or their electronic publishing business to cross-subsidize each other. Section 275 prohibits Bell operating companies from using their local business or their alarm monitoring service business (when allowed in such business) to cross-subsidize each other. None of these sections reference subsidies supporting the disadvantaged one way or another. And, other than for § 254, they are the only sections of the law that reference subsidies.

Like these other sections, § 254 does not support the first prong of the dogma either. Section 254, when taken with § 214(e), establishes procedures for creating mechanisms under which telephone companies--both existing and new competitors--may receive support for providing services at subsidized rates. But, neither §§ 254 nor 214 ever mandates eliminating existing subsidies nor mandates creating universal service resources that will function as a complete substitute for existing subsidies. Indeed, § 254(g) actually

mandates the continuation of one particularly implicit subsidy--that which requires rural and high cost area customers to have long distance rates no higher than those charged in urban centers.

Congress gave a rather clear set of instructions to the federal and state commissions in this area: Identify and define existing subsidies. Set up mechanisms in which we can transfer subsidies from their implicit form to an explicit support mechanism as that can be accomplished effectively and (presumably) without dislocating consumers. Nowhere, however, did Congress instruct the Commission to make all existing implicit subsidies explicit and then eliminate the means by which they are presently collected.

**VI. The Second Problem with the Dogma:
Barring Some Other Arrangement, Revenues from an Industry Segment
Contributing an Implicit Subsidy Should Continue to Contribute the Subsidy
Even If the Subsidy Is Made Explicit**

The failure to distinguish between rendering subsidies explicit and eliminating them has caused the current crisis the Commission has been having over the last few days with AT&T and negative feedback it is getting from some members of Congress. The Commission in recent months has reduced long distance access charges--on grounds that they subsidized local telephone service--and authorized collection of Presubscribed Inter-exchange Carrier Charges (a monthly fixed fee based on the number of lines a customer has that is designed to contribute to universal service funding) from both residential and business customers. As part of that process, the Commission said at ¶ 15 of the Universal Service Order, CC Docket No. 96-45 (May 7, 1997):

Accordingly, through this Order and the *Access Charge Reform Order*, interstate implicit support for universal service will be identified and removed

from interstate access charges, and will be provided through explicit interstate universal service support mechanisms.

If this had merely been an exercise in making implicit subsidies explicit, the customers would have paid no more, and the process of rationalizing subsidies would have commenced. Instead and notwithstanding certain public relations posturing to the contrary, AT&T took the access charges reductions as additional revenue for itself rather than sharing it in a meaningful way with customers. Then, AT&T has now threatened to impose this new per-line fee on customers. The result? AT&T gets a revenue increase. Customers' rates go up. And, AT&T deftly blames universal service support rather than itself for the increased price of service.

And it doing so, what happens? AT&T polishes up its bottom line and teaches consumers that universal service support is a bad thing. Consumers are taught the fallacy that universal service means higher prices.

And what happens to the Campaign's constituents? The resources that are intended to make new and existing telecommunications available--geographically, technologically, and affordably--to the Campaign's constituents they are spread all over America are put at serious risk.

What lessons does this teach? Development of the universal service funding mechanism cannot be accomplished by eliminating one formerly implicit subsidy without having a plan in place for collecting its alternative explicit subsidy. Moreover, since a charge for an implicit subsidy is by definition not related to the cost of a company's--including a long distance company's--doing business, then there should be no tolerance

for a company's continuing to collect old subsidy dollars, as a windfall for itself, when the old subsidy is no longer being collected and used for its legitimate public policy purpose.

In the context of access charges and assuming one believes (as the Commission has ruled) that long distance customers should contribute explicitly to universal service, the following is true: Access charges should be reduced. Long distance customers should enjoy the reduction. Fixed per line monthly charges for a contribution to universal service should be established. Long distance customers should bear the expense. Two things have changed: The subsidy is explicit instead of implicit, and it is treated as a fixed expense rather than variable. Unlike the way the situation appears to be playing out now, no one is gouged, and no one gets a windfall.

That kind of management and adjustment of subsidies is appropriate. That is not what the Commission has caused to happen. Barring other forces dictating a change, each segment of the telecommunications industry should continue to be contributing to universal service support.

**VII. The Third Problem with the Dogma:
Paying Subsidies to Competitors Who Take on Existing Telephone Companies'
Subsidized Customers Risks Increasing the Need for Subsidies
and Still Leaves the Poorest of the Poor and Those Otherwise Least Able to
Protect Themselves the Losers in the Process**

Section 214 directs the Commission to identify competitor telephone companies who should become eligible to receive universal service support in addition to the local telephone company in any local area. Doing so risks nonproductive consumption of available resources for universal service support, and thus should be viewed with great caution. Consider the scenario in which a high-cost customer chooses a different

competing local telephone company. In such a situation, the customer will pay his obligation to the new company, and, if the new company is certified under § 214, the subsidy previously paid the existing telephone company will now be paid to the new telephone company.

In such circumstances we are now subsidizing multiple telecommunications networks. The point of introducing competition was for businesses to compete for customers and improve the overall market efficiency of telecommunications. Having a second or third network built partially based on subsidized payments makes no sense at all. Yet, that is the risk implicit in § 214.

Are we really creating multiple subsidized networks? Yes. The second is the network developed by the new competitor. It gets the subsidy the below-cost customer brings with him or her. The first is the network already existing and getting subsidies.

Some will say, however, that, while we may be supporting two networks, it will be without making duplicate expenditures. That argument is that, by moving the customer from the existing network, we eliminate the need to give the subsidy to the old network. That is wrong.

Simple logic dictates that the subsidy the existing telephone company's networks need is the amount by which costs of their ownership and operation exceed revenues. Historically, as a customer of the existing telephone company, the high-cost customer was contributing completely to the cost of serving him, because he was paying some of the cost himself and the remainder was paid by the subsidy associated with his custom. If his payments and the subsidy move to another company, the existing company no longer receives any revenue from that customer.

Meanwhile, the revenue the customer was providing contributed to both fixed (read, capital and other nonavoidable) costs and variable costs. Because the variable costs can be avoided, the existing company no longer needs to cover them. But the fixed costs have to be recovered somehow. Therefore, when the subsidized customer changes to a new telephone company, both his old company and the new one require subsidies.

Further, the problem is exacerbated by an arbitrage a competitor telephone company can inevitably run. Subsidies must be set at averages--regardless of whether the area is as small as a census tract or city block or as large as a telephone exchange or a city. For purposes of discussion, suppose subsidies from a universal service fund are set for census tracts.

Such subsidies must be set according to the calculation of how much more expensive it is to serve customers in a given tract than the revenue that can be earned from those customers. The subsidy contribution for a given customer will be the difference between the cost and the revenue for serving such customers divided by the number of customers, households, whatever unit of measure the Commission establishes--call it customers for purposes of this discussion.

Some customers within the tract will inevitably be cheaper to serve than others. Some will live in high density neighborhoods or apartment complexes. Some will have higher incomes and buy more vertical services. Whatever--some will be cheaper to serve than others.

In order to work the arbitrage, all the competitor telephone company has to do is to target signing up those relatively cheaper customers to serve and collect the average universal service support payments authorized for each customer in the tract. By following

that strategy, the competitor local telephone company will be able to earn a higher than average return per customer. And the existing telephone company, who by right of its incumbency is required to serve the more expensive customer whose business has not been sought by the competitor, will earn a lower than average return per customer.

The Campaign's constituents shed no tears for the existing telephone company, but they worry mightily in this scenario for themselves. People with disabilities and older adults commonly live on limited and fixed incomes. They commonly do not have and cannot get jobs. They often cannot consider relocating to locales that would make them economically attractive to a competitor local telephone company; they often cannot afford and do not purchase vertical services. They will often be ignored by the competitors; they will often be stuck with the telephone company whose support for universal service will be washed away by the competitors' arbitrage.

Paying subsidies to competitors who take on existing telephone companies' subsidized customers risks increasing the need for subsidies. And it still leaves the poorest of the poor and those otherwise least able to protect themselves with the telephone companies that stand to receive the lowest average universal service support.

**VIII. Properly Targeted Subsidies Are Good Public Policy;
They Are a Necessary and Cherished Part of Giving Every American
an Opportunity to Participate Fully in Society**

The Campaign suggests that this Nation has, at least through lip service, promised all Americans affordable access to usable existing and future telecommunications technology. In some senses that technology serves as an infrastructure in our country that all should have a right to use. It is, in some circumstances, literally a substitute for a road

or highway. For some, a telecommunications connection will take them to work just as or more easily than a drive down the highway. For those who cannot drive because of age or disability, a telecommunications connection will allow them to accomplish work or some other task that they simply could not otherwise do.

Under such circumstances, telecommunications takes a place in this Nation--next to highways, electric, water and sewer services, education, and some other services--as a service meant to be available to all. With the much vaunted dawning of the information age, telecommunications is becoming all the more essential such service. Therefore, re-regulating the telecommunications industry to take advantage of competition's potential is only sensible if we temper that goal with mechanisms to protect the rights of everyone to the continued availability of such services.

Universal service to everybody, including the Campaign's constituents, must be a top priority of the Commission. Universal service requires some degree of subsidization. Therefore, preserving or creating appropriate subsidies to allow for universal service must be a top priority of the Commission. Yet, today, the concept of subsidizing some older adults, people with disabilities, and others who need support for access to usable and affordable new and existing telecommunications technology is scoffed at by many.

Competitors who often take an Ayn Rand-style view of the evolution of the telecommunications industry--let the fittest survive. Attractive as that might be from the point of view of service providers, such a view eschews concern for universal participation in telecommunications. The ones who are not the fittest, including some older adults and people with disabilities, are simply ignored in that scenario. For example, statements in the popular press and testimony at hearings establish that competitors vigorously pursue

business consumers, but not residential. Moreover, even the efforts that are made to pursue residential consumers are addressed to consumers who are strategically placed either geographically or financially. Some competitors are targeting densely populated communities or neighborhoods while others are selling packages of services, including various vertical services, that are discounted but only for someone who would otherwise seek all those services. None are seeking customers among the constituencies the Campaign works for.

Meanwhile, a combination of mistaken information among Congress and various agencies led to the assumption that modest amounts of money would be needed to support schools' and libraries' obtaining Internet/data transfer services and rural health care telecommunications needs, while the true cost appears enormous. As the Common Carrier Bureau has recently said,

As of May 1, 1998, SLC [Schools and Libraries Corporation] projected that \$2.02 billion in discounts have been requested by applicants who have filed through April 28, 1998. RHCC [Rural Health Care Corporation] projected that the rural health care support mechanism will require \$25 million for the third quarter. Although the local exchange carriers will not file their access tariffs until June 16, 1998, based on preliminary information provided by the local exchange carriers, we estimate that the July 1, 1998 access charge reductions will be approximately \$700 million below current levels. Given projected access charge reductions, we estimate that the quarterly collection rate for schools and libraries could rise from \$325 million (the second quarter collection rate) to approximately \$524 million without increasing total access and universal service payments by long distance carriers. Accordingly, schools and libraries could be funded at approximately \$1.67 billion for the 1998 calendar year. Because the 75-day initial filing window period for the rural health care support mechanism just opened on May 1, 1998, we propose that the quarterly collection rate for the rural health care support mechanism remain at \$25 million for the third and fourth quarters of 1998. Accordingly, rural health care providers would be funded at \$100 million for the 1998 calendar year.

Public Notice in the Matter of Common Carrier Bureau Request for Comment on Proposed Revision of 1998 Collection Amounts for Schools and Libraries and Rural Health Care Universal Service Support Mechanisms, CC Docket No. 96-45, DA 98-872, Released: May 13, 1998.

Thus, the demand for schools and libraries and rural health care appears to threaten siphoning off all the savings from access charge reductions that supposedly would have been offset by universal service support for the disadvantaged residential population of older adults, people with disabilities and others.

Some suggest that these needs will be made up for by Lifeline and related support programs. But no proposal appears on the horizon to greatly expand such programs. And vast resources from former subsidy collections are being taken out of the system (i) by competitors' attracting relatively low cost customers from existing telephone companies and ignoring high cost customers, (ii) by companies' being relieved from paying previous subsidy charges and being allowed to absorb the benefit for themselves, and (iii) by introducing a new demand for subsidy dollars in the schools and libraries and rural health programs without introducing new revenues to meet that demand.

Some of this diversion of subsidy support is laudable. Moderate and low income schools and libraries and rural health care facilities need to be able to afford to participate in the existing and future telecommunications technologies. But so must that portion of the general population, including among them the Campaign's constituents, who otherwise will not be able to obtain and afford such telecommunications without universal service support. No coherent plan is emerging to meet that portion of the population's need.

The consumer oriented groups that have traditionally litigated these matters have absorbed themselves in the concern over whether the existing local telephone companies have or are using their monopoly power to stifle competition. Appropriate as those questions are, such groups have not focused on what the Campaign believes is the fundamental issue regarding universal service: What guarantees that advanced technologies will reach, and current technologies will continue to reach, all Americans--geographically, technologically, and affordably--even though they are perforce spread all over America?

IX. Conclusion

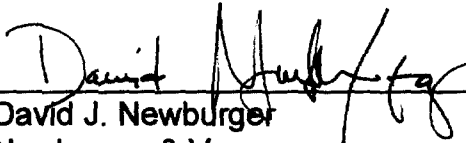
The answer to that question rests first on the observation that it is only the existing telephone companies, who are presently obligated to serve all, will serve the least financially attractive customers.² The question becomes, will those companies receive fair compensation for that service? If not, that service will necessarily decline. And then not all Americans will have access to usable, affordable telecommunications services.

Such companies will receive fair compensation only if there is a system of subsidies that offsets what the least financially attractive customers can afford. In a world like ours where some competition in telecommunications is inevitable, such subsidies cannot be over broad as they are today--subsidizing residents of all the Chevy Chases of the Nation, as well as those living in less fortunate communities. But such subsidies must be more than the lifeline type of subsidy that presently only minimally aids the poorest of the poor.

²Some will argue that allowing subsidies to move with customers will obviate that verity. But as demonstrated in part VII of these comments, there is always a next less attractive customer whom only the company obligated to serve all will serve.

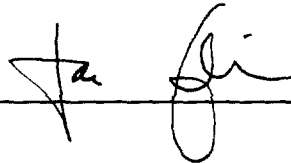
The question of how that support system should work is the question that the Commission has not address--and should be. Until that is done the vast technical niceties of the universal service support mechanism proceedings are largely beside the point.

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I hereby certify that a copy of these Comments were served upon the individuals listed on the attached Service List by mailing the same to them, postage prepaid, this June 1, 1998.



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